

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

DOUGLAS N. GAER, Individually and on)	Case No. 2:10-cv-01061-RCM
Behalf of All Others Similarly Situated,)	
)	Electronically Filed
Plaintiff,)	
)	
vs.)	
)	
EDUCATION MAMGEMENT CORP.,)	
TODD S. NELSON, EDWARD H. WEST,)	
RANDALL J. KILLEEN, JOHN R.)	
MCKERNAN, JR., ADRIAN M. JONES,)	
JEFFREY T. LEEDS, LEO F. MULLIN,)	
PAUL J. SALEM, PETER O. WILDE,)	
GOLDMAN SACHS & CO., J.P. MORGAN)	
SECURITIES INC., MERRILL LYNCH,)	
PIERCE, FENNER & SMITH INC.,)	
BARCLAYS CAPITAL INC., CREDIT)	
SUISSE SECURITIES (USA) LLC,)	
MORGAN STANLEY & CO. INC.,)	
ROBERT W. BAIRD & CO. INC.,)	
WILLIAM BLAIR & CO., LLC, BMO)	
CAPITAL MARKETS CORP., PIPER)	
JAFFRAY & CO., BARRINGTON)	
RESEARCH ASSOCIATES, SIGNAL HILL)	
CAPITAL GROUP, LLC, and STIFEL,)	
NICOLAUS & CO., INC.,)	
)	
Defendants.)	

**UNDERWRITER DEFENDANTS' MOTION TO DISMISS PLAINTIFF'S
AMENDED CLASS ACTION COMPLAINT**

Defendants Goldman, Sachs & Co., J.P. Morgan Securities Inc., Merrill Lynch, Pierce, Fenner & Smith, Inc., Barclays Capital Inc., Credit Suisse Securities (USA) LLC, Morgan Stanley & Co. Inc., Robert W. Baird & Co. Inc., William Blair & Co., LLC, BMO Capital Markets Corp., Piper Jaffray & Co., Barrington Research Associates, Signal Hill Capital Group, LLC and Stifel, Nicolaus & Co., Inc. (collectively, the "Underwriter Defendants"), by and through their undersigned counsel, hereby move, pursuant to Federal Rule of Civil Procedure

12(b)(6), to dismiss Plaintiff's Amended Class Action Complaint (the "Complaint"), and in support thereof state the following:

1. As discussed more fully in the Underwriter Defendants' Brief in Support of their Motion to Dismiss Plaintiff's Amended Class Action Complaint, which is being filed concurrently herewith and which is hereby incorporated by reference herein, the Complaint fails to state claims against the Underwriter Defendants upon which relief can be granted and should be dismissed with prejudice pursuant to Federal Rule of Civil Procedure 12(b)(6).

WHEREFORE, the Underwriter Defendants respectfully request that this Court grant their Motion to Dismiss and enter an order pursuant to Federal Rule of Civil Procedure 12(b)(6), in the form of the proposed order attached hereto, dismissing the Complaint against them with prejudice for failing to state claims upon which relief can be granted.

Dated: March 28, 2011

Respectfully Submitted:

K&L GATES LLP

/s/ Andrew R. Stanton
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Counsel for Underwriter Defendants

CERTIFICATE OF SERVICE

I hereby certify that on March 28, 2011, I electronically filed a true and correct copy of the foregoing document with the Clerk of Court through the Court's CM/ECF system, which will send notification of such filing to all registered users.

/s/ Andrew R. Stanton

Andrew R. Stanton